

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 35652

STATE OF IDAHO,)	2009 Unpublished Opinion No. 530
)	
Plaintiff-Respondent,)	Filed: July 17, 2009
)	
v.)	Stephen W. Kenyon, Clerk
)	
KIRKLEY ALLEN EVANS,)	THIS IS AN UNPUBLISHED
)	OPINION AND SHALL NOT
Defendant-Appellant.)	BE CITED AS AUTHORITY
)	

Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Hon. Michael E. Wetherell, District Judge.

Judgment of conviction and unified sentence of ten years, with six years determinate, for aggravated assault upon a law enforcement officer, affirmed.

Molly J. Huskey, State Appellate Public Defender; Diane M. Walker, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Lori A. Fleming, Deputy Attorney General, Boise, for respondent.

Before LANSING, Chief Judge, PERRY, Judge
and GUTIERREZ, Judge

PER CURIAM

Kirkley Allen Evans was charged with aggravated assault upon a law enforcement officer, I.C. §§ 18-915, 18-905, 18-901, with a persistent violator enhancement. Pursuant to a plea agreement, Evans entered an *Alford*¹ plea to the charge and the state agreed to dismiss the persistent violator enhancement. Evans was sentenced to a unified term of ten years, with six years determinate. Evans appeals from his judgment of conviction and sentence, contending that the district court abused its discretion by imposing an excessive sentence.

¹ *North Carolina v. Alford*, 400 U.S. 25 (1970).

Where a sentence is within the statutory limits, it will not be disturbed on appeal absent an abuse of the sentencing court's discretion. *State v. Hedger*, 115 Idaho 598, 604, 768 P.2d 1331, 1337 (1989). We will not conclude on review that the sentencing court abused its discretion unless the sentence is unreasonable under the facts of the case. *State v. Brown*, 121 Idaho 385, 393, 825 P.2d 482, 490 (1992). In evaluating the reasonableness of a sentence, we consider the nature of the offense and the character of the offender, applying our well-established standards of review. See *State v. Hernandez*, 121 Idaho 114, 117-18, 822 P.2d 1011, 1014-15 (Ct. App. 1991); *State v. Lopez*, 106 Idaho 447, 449-51, 680 P.2d 869, 871-73 (Ct. App. 1984); *State v. Toohill*, 103 Idaho 565, 568, 650 P.2d 707, 710 (Ct. App. 1982). When reviewing the length of a sentence, we consider the defendant's entire sentence. *State v. Oliver*, 144 Idaho 722, 170 P.3d 387 (2007).

Applying the foregoing standards and having reviewed the record, we conclude that the district court did not abuse its discretion by imposing the sentence. Accordingly, Evans' judgment of conviction and sentence are affirmed.